

Message Text

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ACTION L-03

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FM AMEMBASSY TUNIS

TO SECSTATE WASHDC PRIORITY 2169

INFO USDOC WASHDC

AMEMBASSY ALGIERS

AMEMBASSY TRIPOLI

UNCLAS TUNIS 5766

E.O. 11652: N/A

TAGS: ETRN, EFIN, TS

SUBJ: TAXATION OF INSTRUMENTS OF FOREIGN COMMERCE: TUNISIA

REF: STATE 191803, TUNIS 5510

1. WITH BENEFIT OF LOCAL LEGAL COUNSEL, WE ARE NOW
ABLE TO PROVIDE FOLLOWING SUBSTANTIVE REPLY TO QUERY
REGARDING TUNISIAN TAXATION OF INSTRUMENTS OF FOREIGN
COMMERCE.

2. WHILE ELABORATE STRUCTURES OF TAXES ARE APPLIED
BY GOT TO MARITIME SHIPPING AND AVIATION AND THEIR CARGOES,
PAYMENTS ARE DIRECT TO PORT AND AIRPORT AUTHORITIES,
RESPECTIVELY, AND ARE IN CLOSE RELATIONSHIP TO SERVICES
ACTUALLY RENDERED BY THESE AGENCIES, I.E. THEY APPEAR
TO HAVE CHARACTER OF USER FEES. MOST OF THESE CHARGES
ALSO ARE PAID BY TUNISIAN CARRIERS AT SAME RATES. ALTHOUGH
THERE IS RAILROAD LINKAGE WITH ALGERIA, FOREIGN RAIL
EQUIPMENT DOES NOT CROSS BORDER INTO TUNISIA.

3. THE ONE INSTANCE WHERE TAXES OF APPARENTLY FISCAL
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CHARACTER ARE IMPOSED SPECIFICALLY ON FOREIGN INSTRUMENTS
OF COMMERCE IS TRUCKING. FOREIGN REGISTRY TRUCKS PAY
TAXES TO TUNISIAN CUSTOMS FOR EACH DAY THEY ARE IN TUNISIA
CALCULATED ON BASIS OF (A) GROSS WEIGHT (DESCRIBED AS
TAX ON CONSUMPTION OF TIRES AND INNER TUBES) AND (B) PRO
RATA FRACTION OF ANNUAL TAX ON SIMILAR VEHICLES REGISTERED
IN TUNISIA (TAX IS DEDICATED TO "COMPENSATION FUND" TO

SUBSIDIZE DOMESTIC CONSUMPTION OF CERTAIN ESSENTIALS).

4. THERE IS NO DISTINCTIVE LEGAL REGIME APPLICABLE TO CARGO CONTAINERS. NO SPECIAL CHARGES ARE LEVIED ON THEM BUT PORT CHARGES ARE BASED ON GROSS WEIGHT OF CARGOES, THUS TREATING CONTAINERS IN SAME MANNER AS OTHER PACKING MATERIALS.

5. APART FROM EXEMPTION FOR LIBYAN AND ALGERIAN TRUCKS, TO BEST OF OUR KNOWLEDGE TAXES ON VARIOUS MODES OF FOREIGN SHIPPING ARE NON-DISCRIMINATORY, WITH NO PROVISIONS FOR EITHER RETALIATION OR RECIPROCAL EXEMPTION BASED ON FOREIGN TAX TREATMENT.

6. BASIC LAW APPLICABLE TO TAXATION OF FOREIGN REGISTRY TRUCKS IS CONTAINED IN : TUNISIAN CUSTOMS CODE, DECREE OF FEBRUARY 2, 1948, BEYLICAL DECREE OF MAY 25, 1950 AND LAW NO. 67-57 OF DECEMBER 30, 1967. THAT APPLICABLE TO FOREIGN SHIPS IS DECREE-LAW NO. 70-588 OF OCTOBER 27, 1970. THAT APPLICABLE TO FOREIGN AIRCRAFT CONTAINED IN : DECREE LAW NO. 59-201 OF JULY 4, 1959, COMPENDIUM OF LAWS VOL. I, CHAP. IV, ITEM 52 - LAW OF JULY 3, 1970, AND CREATION OF AIRPORTS OFFICE DECREE 76-909 OF OCTOBER 21, 1976.

7. FINDINGS ON LOCAL LEGAL COUNSEL ARE BASED ON LESS UNCLASSIFIED

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THA EXHAUSTIVE RESEARCH AND THUS ARE NOT NECESSARILY AUTHORITATIVE. CHARACTERIZATIONS OF PURPOSES OF TAXES (WHETHER SERVICE CHARGES OR FISCAL CHARGES FOR REVENUE) ARE TENTATIVE ASSESSMENTS BY EMBASSY. AIRGRAM FOLLOWS WITH TAX DETAILS. KING

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